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2 STATE OF ILLINOIS  
3 ILLINOIS COMMERCE COMMISSION

4 NORTHERN ILLINOIS GAS COMPANY :  
d/b/a NICOR GAS COMPANY. :  
5 : No. 13-0361  
Application for permanent :  
6 Certificate of Public Convenience :  
and Necessity, under Section 8-406 :  
7 of the Public Utilities Act, to :  
construct, operate and maintain :  
8 gas main distribution facilities :  
and to transact the business of :  
9 furnishing gas service to the :  
public in Carroll County, Illinois.:

10 Chicago, Illinois

11 June 4, 2013

12 Met, pursuant to adjournment, at 2:00 o'clock  
13 p.m.

14 BEFORE: HEATHER JORGENSEN, Administrative Law Judge  
15

16 APPEARANCES:

17 ROONEY, RIPPIE & RATNASWAMY,  
350 West Hubbard Street - Suite 600  
Chicago, Illinois 60654  
18 anne.mitchell@r3law.com  
(312) 447-2800

19 BY: MS. ANNE W. MITCHELL,  
20 Appeared on behalf of Nicor Gas Company;  
21  
22

1 APPEARANCES: (Continued)

2 QUARLES & BRADY,  
3 300 North LaSalle Street - Suite 4000  
4 Chicago, Illinois 60654-3422  
christopher.skey@quarles.com  
(312) 715-5022

5 BY: MR. CHRISTOPHER N. SKEY,

6 Appeared on behalf of Jo-Carroll Energy,  
7 Inc.;

8 ILLINOIS COMMERCE COMMISSION,  
9 160 North LaSalle Street - Suite 800-C  
Chicago, Illinois 60601  
mharvey@icc.illinois.gov  
kswan@icc.illinois.gov  
10 (312) 814-1156

11 BY: MS. KIMBERLY J. SWAN and  
12 MR. MATHEW L. HARVEY,

13 Appeared on behalf of the Staff of the  
14 Illinois Commerce Commission;

15 L.A. COURT REPORTERS, LLC.  
8 West Monroe Street - Suite 2007  
Chicago, Illinois 60603  
(312) 419-9292

16 BY: LORI ANN ASAUSKAS, CSR, RPR  
License No. 084-002890

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I N D E X

WITNESSES:            Direct   Cross   Redirect   Recross  
None.

E X H I B I T S

NUMBER	MARKED FOR ID	IN EVIDENCE
None.		

1 JUDGE JORGENSEN: Pursuant to the  
2 direction of the Illinois Commerce Commission,  
3 I now call Docket 13-0361, Northern Illinois Gas  
4 Company doing business as Nicor Gas Company,  
5 Application for permanent Certificate of Public  
6 Convenience and Necessity, under Section 8-406 of  
7 the Public Utilities Act, to construct, operate  
8 and maintain gas main distribution facilities and  
9 to transact the business of furnishing gas service  
10 to the public in Carroll County, Illinois.

11 Can I have appearances for the  
12 record and we will start with the Company?

13 MS. MITCHELL: Thank you, your Honor.  
14 On behalf of Nicor Gas Company, Anne Mitchell, with  
15 the firm Rooney, Rippie & Ratnaswamy, LLP, 350 West  
16 Hubbard Street, Suite 600, Chicago, Illinois 60654.

17 MR. SKEY: On behalf of Jo-Carroll  
18 Energy, Inc., Chris Skey, S-K-E-Y, together with  
19 Christopher Townsend and Adam Margolin, with the  
20 law firm of Quarles & Brady, LLP, 300 North LaSalle  
21 Street, Chicago, Illinois.

22 MS. SWAN: On behalf of the Staff and

1 the Illinois Commerce Commission, Kimberly Swan  
2 and Matthew Harvey, 160 North LaSalle Street,  
3 Suite C-800, Chicago, Illinois 60601.

4 JUDGE JORGENSEN: Thank you. We have  
5 a couple of preliminary matters to address. First,  
6 we have a petition to intervene on behalf of  
7 Jo-Carroll Energy. Are there any objections to  
8 this petition?

9 MS. MITCHELL: No objection.

10 MS. SWAN: No objection.

11 JUDGE JORGENSEN: Hearing none, the  
12 petition is granted.

13 We also have a revised motion for  
14 a protective order. I believe there has been some  
15 discussion about this. Can you please fill me in?

16 MR. SKEY: Thank you, your Honor. Chris  
17 Skey on behalf of Jo-Carroll Energy.

18 During our discussion off the  
19 record, I pointed out a couple of items by way  
20 of background. As I understand the motion for  
21 protective order, it seeks -- it seeks confidential  
22 treatment of two classes of information. One being

1 critical infrastructure information and the other  
2 being general confidential information.

3                   The first item that I noted is  
4 that for purposes of the general confidential  
5 information, the company is seeking five years  
6 of confidential treatment and while we don't  
7 necessarily object to that, we would note that  
8 the Commission these days -- it's my understanding  
9 at least that the Commission has typically granted  
10 two years confidential treatment for that type of  
11 information.

12                   We make no objection to the request  
13 for perpetual confidential treatment of the critical  
14 energy information material that the company might  
15 designate.

16                   The other item that I identified in  
17 the proposed order relates to what needs be done with  
18 confidential information or critical infrastructure  
19 information at the conclusion of the case and it  
20 would be our request that if the company wants  
21 something done with that information, for example, if  
22 it wants it destroyed or returned to the company, the

1 company should have an affirmative obligation under  
2 the order to reach out to any parties who receive  
3 that information and make that request rather than  
4 just having a self-executing statement in a  
5 protective order that requires a party who received  
6 that information to do something with it months or  
7 years down the road. So those are the two items that  
8 Jo-Carroll Energy raised.

9 JUDGE JORGENSEN: Ms. Mitchell?

10 MS. MITCHELL: Thank you, your Honor.

11 As to the amount of time on the confidential  
12 information, the statute provides for five years.  
13 So that's what we have requested.

14 JUDGE JORGENSEN: Is there a reason for  
15 five years rather than two?

16 MS. MITCHELL: At this point, your  
17 Honor, it's hard to say because the -- since this  
18 is a forward looking request. At this point in  
19 time, the company has not designated anything under  
20 that provision of the protective order. So the five  
21 years is -- because of the nature of the information  
22 that would be protected under that provision, that

1 is propriety information. The nature of propriety  
2 information doesn't often change with respect to  
3 the gas company in the shorter amount of time so  
4 that's why the company has requested the full five  
5 years.

6 As to the -- I'm sorry, your Honor.  
7 Did you have a question on that or can I address the  
8 next section?

9 JUDGE JORGENSEN: Go ahead and address  
10 the next section.

11 MS. MITCHELL: Okay. And then as to  
12 Jo-Carroll's request for an affirmative request from  
13 the company for destruction of materials at the end  
14 of the case, the company is amenable to having that  
15 structure in place for both critical energy  
16 infrastructure information as well as the second  
17 bucket of more traditional confidential information.

18 Depending on your Honor's rulings,  
19 the company would propose to submit a reviewed  
20 protective order. It was Exhibit A to the company's  
21 motion for entry of a protective order and we would  
22 revise it according to today's ruling and resubmit



1 it to your Honor.

2 JUDGE JORGENSEN: You said the nature  
3 of that information doesn't change. So what would  
4 be the difference between two years and five years?

5 MS. MITCHELL: That the longer -- the  
6 longer we go out, the less likely it is that it is  
7 competitively sensitive and so -- so the more time  
8 that has passed, the less likely it is that the  
9 information would be, you know, of interest to  
10 competitors basically.

11 JUDGE JORGENSEN: What aspects of the  
12 information are -- since I don't have it in front  
13 of me, can you remind me what aspects of information  
14 are of interest here?

15 MS. MITCHELL: Yes. I apologize. And  
16 again, the categories that are sought in this  
17 particular section of the protective order -- that  
18 are addressed in this particular section of the  
19 protective order are -- I apologize. I am looking  
20 for the description. I apologize, your Honor, for  
21 the delay. It is the nature of the information that  
22 would be something that the company has a proprietary

1 interest in maintaining confidential protection of  
2 such that it might be something that a competitor  
3 might be able to use to their advantage to compete  
4 with Nicor Gas in its business. I apologize. It's  
5 hard in the abstract that talks about it because in  
6 this particular instance, we have not yet received a  
7 request for that kind of information. So far, the  
8 only materials that have been designated confidential  
9 fall into the first category of confidential critical  
10 energy infrastructure information and not the latter  
11 category.

12                   So what I can offer is simply the  
13 description of information as being something that  
14 the company wants to maintain as proprietary  
15 protection for confidential protection because it  
16 would somehow impinge on its competitive interests.

17                   JUDGE JORGENSEN: Okay. Well, absent  
18 further discussion on why it should have five years,  
19 I'm going ahead and -- I'm inclined to just give it  
20 the two years as the Commission has generally been  
21 doing rather than the five.

22                   So if you can, include that in the

1 revised one that you are suggesting in the changes as  
2 proposed by Mr. Skey.

3 MS. MITCHELL: And your Honor, what's  
4 your preference on the manner in which we submit  
5 that? Should we just send you a Word document  
6 version copying the parties or should we file it  
7 on eDocket or what's the best mechanism?

8 JUDGE JORGENSEN: You can go ahead and  
9 just file it on eDocket, if you want.

10 MS. MITCHELL: Okay.

11 JUDGE JORGENSEN: Okay. That takes care  
12 of the revised motion for a protective order and the  
13 petition to intervene.

14 MS. MITCHELL: And, your Honor, I  
15 apologize. Just to clarify, you said with those  
16 changes in the protective order itself, the motion  
17 is granted?

18 JUDGE JORGENSEN: Correct. Sorry. Yes.  
19 The motion is granted with the changes in the  
20 protective order. Thank you for making that clear.

21 MS. MITCHELL: Thank you.

22 JUDGE JORGENSEN: All right. I believe

1 the parties have agreed to an expedited discovery  
2 schedule so this gets passed by August 1st.

3                   Correct me if I'm wrong, but the  
4 parties have agreed to a 14-day turnaround on  
5 discovery requests and that the company has also  
6 agreed to provide Jo-Carroll the discovery that's  
7 already been conducted to date; is that correct?

8                   MS. MITCHELL: Yes, your Honor. As soon  
9 as the company will provide the discovery conducted  
10 to date with the exception with the confidential  
11 information and will provide that as soon as the  
12 certification that is part of the protective order  
13 has been executed by Jo-Carroll's counsel and  
14 returned to the company. At that point, we can we  
15 provide the confidential information no problem.

16                   MR. SKEY: Can I just make a  
17 clarification, Judge? I'm just trying to work  
18 through the timeline in my head here. One thing that  
19 would be helpful is -- and I'm assuming -- I think  
20 this is what Ms. Mitchell is saying so I'm not  
21 questioning that, but as soon as we have the  
22 opportunity to get her the certification for the

1 confidential treatment, and we will do that as soon  
2 as it's reissued, I guess, is the company then going  
3 to -- do we have to send them a data request for the  
4 data request responses that have already been served  
5 and then we have to wait 14 days or would the company  
6 just provide that to us? I can make an on-the-record  
7 request that the company provide to us, say, within  
8 two days after we provide the certification document  
9 the data request responses that have already been  
10 served in the course of the case?

11 MS. MITCHELL: Yes. That would be fine.  
12 The company will provide -- given the on-the-record  
13 data request because the company's preference is to  
14 have a data request formally requesting those  
15 materials.

16 MR. SKEY: Well, we will include that  
17 in the written data request that we send, but if  
18 the point is to move things along and there's already  
19 data requests that are out there and if they can send  
20 them to us, then we're going to formulate -- maybe  
21 we're not going to formulate any new data requests,  
22 but we may have some questions about things in which

1 case we will get those to them as soon as we can and  
2 certainly within 14 days. But if they're already out  
3 there, it seems like they can send them over. That's  
4 the position we would take.

5 JUDGE JORGENSEN: So you're making an  
6 oral request now for her to send the already  
7 conducted discovery requests rather than including it  
8 in your formal discovery requests?

9 MR. SKEY: That's correct, your Honor.  
10 It's our understanding the company is seeking  
11 expedited treatment of the case. We're not opposing  
12 that at this point, but we would like to take  
13 discovery in the case to inform ourselves about the  
14 relevant issues before we have our next status  
15 hearing to talk about scheduling. Therefore, I think  
16 consistent with the request for expedited treatment,  
17 we would request on the record that as soon as we  
18 send them the signed protective order form, within  
19 two days of sending that to them, they would provide  
20 us with the discovery requests that have already been  
21 served in the case -- discovery request responses  
22 that have already been served in the case.

1 JUDGE JORGENSEN: Ms. Mitchell?

2 MS. MITCHELL: That's fine with the

3 company.

4 JUDGE JORGENSEN: Okay.

5 MR. SKEY: Thank you and we appreciate

6 that.

7 JUDGE JORGENSEN: It is also my

8 understanding that we've agreed to set a status

9 date to discuss where this matter stands on July 9th

10 at 2:00 p.m.

11 MR. HARVEY: Yes.

12 JUDGE JORGENSEN: Is there anything

13 further for the record today?

14 MS. MITCHELL: Nothing from the company.

15 MR. SKEY: No.

16 JUDGE JORGENSON: Hearing nothing

17 further, this matter is continued to July 9th at 2:00

18 o'clock.

19 MS. MITCHELL: Thank you, your Honor.

20 MS. SWAN: Thank you, your Honor.

21 MR. HARVEY: Thank you, Judge.

22 MR. SKEY: Thank you, your Honor.

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(Whereupon, this matter is  
continued to July 9, 2013,  
at 2:00 p.m.)